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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,909	02/05/2004	Maurus Logan	Medcount-106	5225
7590	12/13/2004		EXAMINER	
James J. Daley c/o Medcount Systems, L.L.C. 30 Hillside Road Elizabeth, NJ 07208			MORRISON, NASCHICA SANDERS	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/772,909	LOGAN, MAURUS 
	Examiner	Art Unit
	Naschica S Morrison	3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 February 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
 4a) Of the above claim(s) 3,4,6,7,11 and 13 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1,2,5,8-10,12,14 and 15 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 05 February 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the first Office Action for serial number 10/772,909, Method and apparatus for securing cables and the like, filed on February 5, 2004. Claims 1-15 are pending.

Election/Restrictions

This application contains claims directed to the following patentably distinct species of the claimed invention: Species I according to Figures 1-4; Species II according to Figures 5-7; Species III according to Figures 8-13; and Species IV according to Figures 14-16.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 and 12 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by

37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with James Daly on December 2, 2004 a provisional election was made without traverse to prosecute the invention of Species I according to Figs. 1-4, claims 1, 2, 5, 8-10, 12, 14 and 15. Affirmation of this election must be made by applicant in replying to this Office action. Claims 3, 4, 6, 7, 11 and 13 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Specification

The disclosure is objected to because of the following informalities: on page 8, line 19 and page 9, line 7, "42a" should be –44a--. Appropriate correction is required.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "48a" in Figure 12. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 2 and 5 are objected to because of the following informalities: on line 6, "in and to" should be –into and--. Appropriate correction is required.

Claim 10 is objected to because of the following informalities: on line 4, insert –member—after “securement”. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, 8-10, 12, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 1,710,157 to Felix. Felix discloses in combination, a mounting panel (wall in Fig. 2; lines 27-29) defining a mounting opening (4), a cable tie (1) having a head portion (at one free end) and a tail (adjacent 2) extending from the head portion to a free end (opposite free end), and a securement member (3) having a dimension exceeding an extent of the mounting panel opening, the tail extending through the mounting opening and defining a v-shaped tail portion (between 2 and 2) rearwardly of the mounting panel, the securement member (3) being disposed in the v-shaped tail portion rearwardly of the mounting panel and urged thereagainst by the cable tie tail and being portable with the cable tie; wherein the securement member defines first and second slots (2, 2) and first and second contiguous parts of the v-shaped tail extend respectively through the first and second slots wherein the securement member is rotatable relative to the cable tie tail to be insertable into and pass through the mounting panel opening. Regarding claims 12, 14 and 15, the

method steps recited therein are further taught by Felix (lines 30-51) and also deemed to be inherent to the functions of the structure of the apparatus as applied above.

Claims 1, 2, 8, 9, 12, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,314,154 to O'Grady. O'Grady discloses in combination, a mounting panel (24) defining a mounting opening (26), a cable tie (20) having a head portion (at 20 in Fig. 11) and a tail extending from the head portion to a free end (opposite end of 20), and a securement member (10) having a dimension exceeding an extent of the mounting panel opening, the tail extending through the mounting opening and defining a v-shaped tail portion (see Figs. 11 and 12) rearwardly of the mounting panel, the securement member (10) being disposed in the v-shaped tail portion rearwardly of the mounting panel and urged thereagainst by the cable tie tail and being portable with the cable tie; wherein the securement member defines at least one slot (18) and first and second contiguous parts of the v-shaped tail extend outwardly of opposite sides of the slot, wherein the securement member is rotatable relative to the cable tie tail to be insertable into and pass through the mounting panel opening. Regarding claims 12, 14 and 15, the method steps recited therein are further taught by O'Grady (col. 2; lines 36-66) and also deemed to be inherent to the functions of the structure of the apparatus as applied above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: 3632070 to Thayer; 3913876 to McSherry; 4269378 to Barry; 4524937 to Zizan; 4638966 to Ford; 5169100 to Milcent et al; 5337983 to Mailey; 5386615 to Bernard; 5390883 to Songhurst; 5653409 to White, Jr. et al.

The above references disclose mounting apparatuses relevant to the present invention.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703) 305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 306-1113.


Naschica S. Morrison
Patent Examiner
Art Unit 3632
12/3/04


ANITA KING
PRIMARY EXAMINER